

ATTORNEYS & COUNSELORS

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FACSIMILE

DATE: December 14, 2004

DIRECT DIAL NUMBER: (214) 953-5943

FROM: Suzan Kedron

DIRECT FAX NUMBER: (214) 661-6654

NAME	COMPANY NAME	FACSIMILE NUMBER	PHONE NUMBER
Darren L. Reagan	Black State Employees Association of Texas	(214) 467-7704	(214) 467-7600
Bill Fisher	Odyssey	(972) 455-9297	(972) 455-9298

PLEASE CALL (214) 953-6000
IF YOU DO NOT RECEIVE ALL PAGES.

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CLIENT/MATTER NO.: 125249-2

TK ID: SXX3 PAGE COUNT: 8

MESSAGE:

Darren attached are the public deed restrictions that were filed for the Bruton at St. Augustine case. Please call me to update me on the status of your discussions with Commissioner Lee and Councilperson Hill. THANKS.

Austin
Dallas
Fort Worth
Houston
Richardson
San Angelo
San Antonio

Member of GLOBALAW™

GOVERNMENT
EXHIBIT

153B

3:07-CR-0289-M

FILE COPY

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Dallas, Texas 75202

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JACKSON WALKER L.L.P.

Suzan Kedron

(214) 953-5943 (Direct Dial)

(214) 661-6654 (Direct Fax)

skedron@jw.com

December 13, 2004

Mr. David Whitley
City of Dallas
1500 Marilla Street, 5BN
Dallas, Texas 75201

Re: Zoning Case No. Z034-327;
NWC Bruton and St. Augustine Roads.

Dear David:

The applicant has authorized me to volunteer public deed restrictions in regard to the above-referenced case. Enclosed, please find the following in support of the volunteered public deed restrictions:

1. Draft Public Deed Restriction document; and
2. Filing fee check payable to the City of Dallas in the amount of \$350.00.

Please note that Commissioner Lee specifically requested that D-1 overlay also be included with the public deed restrictions. Since, however, the zoning request retains the D-1 overlay it was not included again in the attached draft. Should you allow the retention of the D-1 overlay in the public deed restrictions as well, the applicant is in agreement.

Please don't hesitate to call should you have any questions, or require additional information.

Very truly yours,

Suzan Kedron

Austin
Dallas
Fort Worth
Houston
Richardson
San Angelo
San Antonio

cc: Commissioner Lee

DRAFT**DEED RESTRICTIONS**

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, DALLAS I, LTD. a California Limited Partnership, ("the Owner"), is the owner of the following described property ("the Property"), being in particular 11.199 acre tract of land situated in the Thomas M. Johnson Survey, Abstract No. 695, City of Dallas ("City"), Dallas County, Texas, and being that same tract of land conveyed to the Owner by deed dated November 19, 1984, and recorded in Volume 84231, page 4370, in the Deed Records of Dallas County, Texas, and being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

II.

The Owner does hereby impress all of the Property with the following deed restrictions ("Restrictions"), to wit:

- (1) The Property shall be limited to a maximum of two hundred and forty (240) dwelling units.
- (2) The minimum amount of retail/office/flex area shall be ten thousand (10,000) square feet.
- (3) The maximum structure height shall be four (4) stories, exclusive of roof-top structures, such as mechanical equipment rooms, elevator penthouses or bulkheads, cooling towers, skylights, clerestories, chimneys and vent stacks, amateur communications towers, and visual screens which surround roof mounted mechanical equipment.

III.

These Restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These Restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these Restrictions, the Owner must then file the amending or terminating instrument in the Deed Records of the county or counties where the

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Property is located at his or her sole cost and expense before the amendment or termination becomes effective.

V.

These Restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owner agrees that these Restrictions inure to the benefit of the City. The Owner hereby grants the City the right to enforce these Restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these Restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these Restrictions, the Owner agrees that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owner agrees that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these Restrictions are complied with. The right of the City to enforce these Restrictions shall not be waived, expressly or otherwise.

VII.

The Owner agrees to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

DRAFT**XI.**

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this _____ day of _____, 2004.

OWNER:

DALLAS I, LTD.

By: _____

Name: Michael F. Harland

Title: General Partner

**CONSENT AND CONCURRENCE OF
LIENHOLDER:**

Property Lienholder

By: _____

Title: _____

APPROVED AS TO FORM:

MADELEINE B. JOHNSON, City Attorney

By: _____

Assistant City Attorney

DRAFT

THE STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

This instrument was acknowledged before me on the _____ day of _____, 2004
by Michael F. Harland, General Partner of DALLAS I, LTD.

Notary Public-- State of Texas

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EXHIBIT A

BEING a tract of land in the Thomas M. Johnson Survey, Abstract No. 695 in the City of Dallas, Dallas County, Texas, City Block 6735, and being described as follows:

BEGINNING at an iron rod for corner in the West line of St. Augustine Road, said point being North 00 degrees 02 minutes 30 seconds East, 145.0 feet from the Northerly cut back clip of the intersection of the West line of said St. Augustine Road with the North line of Bruton Road;

THENCE South 89 degrees 48 minutes 30 seconds West a distance of 300.0 feet to a iron rod for corner;

THENCE South 00 degrees 02 minutes 30 seconds West a distance of 150.0 feet to an iron rod for corner in the North line of said Bruton Road;

THENCE South 89 degrees 48 minutes 31 seconds West with the North line of said Bruton Road a distance of 660.26 feet to an iron rod for corner;

THENCE North 00 degrees 09 minutes 09 seconds East a distance of 37.54 feet to an iron rod for corner;

THENCE in a Northeasterly direction with a curve to the right having a radius of 485.0 feet a central angle of 64 degrees 00 minutes 06 seconds a distance of 541.76 feet to an iron rod for corner;

THENCE North 64 degrees 09 minutes 31 seconds East a distance of 763.49 feet to an iron rod for corner in the West line of St. Augustine Road;

THENCE South 00 degrees 02 minutes 29 seconds West a distance of 652.29 feet to the PLACE OF BEGINNING and containing 11.199 acres of land.



JACKSON WALKER L.L.P.

ATTORNEYS AND COUNSELORS

901 Main Street, Suite 6000, Dallas, Texas 75202
(214) 553-6000 Fax (214) 553-5822

Austin Dallas Ft. Worth Houston Richardson San Angelo San Antonio

Bank of America
Dallas, Tx

406737

Check Date: 12/13/2004

\$ ***350.00***

Three hundred fifty and 00/100

DOLLARS

PAY TO THE
ORDER OF

City of Dallas

Req. # 319554

AUTHORIZED SIGNATURE

406737 111000025 000180472852

Vendor ID: 10938

Req319554

NATOD

<000180472852<

Check Date: 12/13/2004

Check #: 406737

Disb ID 6593328

C/M# 126249.00002

FFEE

PAYEE: City of Dallas; REQUEST#: 319654; DATE: 12/13/2004. -
Filing fee

350.00

CITY OF DALLAS
DEPARTMENT OF PLANNING AND DEVELOPMENT

Receipt # 31744

12/13/04 CASH/AMT TOTAL
CHK/AMT 406.737 \$ 350.00

RECEIVED FROM

Jackson Walker, LLC

(NAME)

901 Main St. Ste #6000, Dal, TX 75202

(ADDRESS)

THE SUM OF

Three Hundred dollars & fifty

DOLLARS

☐ COPY/XEROX

@

☐ ZONING APPLICATION #☐ REPORTS

@

FEE

☐ MAPS

@

35%

65%

☐ OTHERS

@

☐ ZONING NOTIFICATION SIGN☒ MISC. DOCKET ITEMS 2034-327

Deed Restrictions

BY R.B.